

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

WEDNESDAY, THE 25TH JULY 2007 / 3RD SRAVANA 1929

OP.No. 28033 of 2001(K)

PETITIONER:

K.K.SAVITHRI,
D/O. KATTUPARAMBIL KRISHNAN,
ANJAPPALAN DESOM, POST METHALA,
METHALA VILLAGE, KODUNGALLUR TALUK.

BY ADV. SRI.K.J.MOHAMMED ANZAR

RESPONDENTS:

1. STATE OF KERALA, REP. BY THE SECRETARY,
REVENUE DEPARTMENT, GOVERNMENT OF KERALA,
THIRUVANANTHAPURAM.
2. THE TAHSILDAR, KODUNGALLUR,
TALUK OFFICE, KODUNGALLUR.
3. T.S.SIVARAMAN, S/O.THAITHARA SANKARAN,
ANJAPPALAN DESOM, METHALA VILLAGE, KODUNGALLUR.
- *4. TODDY WORKERS' WELFARE FUND BOARD,
THRISSUR.

(*IMPLEADED AS ADDITIONAL RESPONDENT AS PER JUDGMENT IN OP
28033/2001 DATED 25/07/2007)

BY ADV. SHRI.P.N.SANTHOSH, GOVERNMENT PLEADER
SRI.M.SAJJAD
ADV. SHRI.K.HARILAL, SC FOR ADDL.R4.

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD
ON 25/07/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

OP 28033/2001

ORDER ON CMP NO. 45562/2001 IN OP NO. 28033/2001

DISMISSED.

25/07/2007.

SD/- (C.N.RAMACHANDRAN NAIR, JUDGE)

APPENDIX

PETITIONER'S EXHIBITS

P1 : COPY OF THE AGREEMENT FOR SALE DATED 30/08/1983.

P2 : COPY OF THE SALE DEED DATED 14/12/1988.

P3 : COPY OF THE HNOTICE DATED 18/07/2001.

P4 : COPY OF THE PETITION DATED 08/08/2001.

P5 : COPY OF THE SALE NOTICE DATED 17/08/2001.

P6 : COPY OF THE REPRESENTATION DATED 07/08/2001.

P7 : COPY OF THE REPRESENTATION.

P8 : COPY OF THE POSTAL RECEIPT ISSUED BY THE POSTAL DEPARTMENT ON
REGISTRATION.

// TRUE COPY //

PA TO JUDGE.

jg

C.N.RAMACHANDRAN NAIR, J.

O.P. No. 28033 of 2001

Dated, this the 25th day of July, 2007

J U D G M E N T

Toddy Workers' Welfare Fund Board, Thrissur is impleaded as additional respondent. Adv. Shri.Harilal, Standing Counsel, took notice and argued the matter on behalf of additional respondent.

2. Petitioner's case is that the property purchased by her from the defaulter husband cannot be proceeded against for recovery of arrears of toddy workers welfare fund. The specific case of the petitioner is that security is furnished in respect of other properties, which according to the learned Standing Counsel for the additional respondent is marshy land purchased by Government in another recovery proceedings. Liability is admittedly for the year 1987-88 and the transfer was effected by defaulter in favour of the petitioner only on 14/12/1988. In the circumstances, transfer is apparently to evade payment. In any case, the validity of the transfer of property by defaulter in favour of the petitioner has to be considered by the Tahsildar as per all provisions of Section 44 of the RR Act and Section 53 of the TP Act. If transaction is invalid, Tahsildar can

declare so and proceed against the property transferred by the defaulter in favour of the petitioner. If petitioner identifies the other valuable properties of the defaulter, then such property should be sold first and recovery against petitioner's property need to be proceeded with only if full amount is not recovered. This original petition is, accordingly, disposed of directing Tahsildar to decide the matter and proceed with recovery immediately.

(C.N.RAMACHANDRAN NAIR, JUDGE)